

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

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| IN THE MATTER OF: City of Harris Wastewater facility No. 7222001 Osceola County, Iowa | ADMINISTRATIVE CONSENT ORDER NO. 2015-WW-01 |
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TO: City of Harris
123 Railroad Ave
P.O. Box 135
Harris, IA 51345

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Harris (City) and the Iowa Department of Natural Resources (Department) for the purpose of resolving the City's violations of the terms and conditions of its National Pollution Discharge Elimination System (NPDES) permit and applicable Department rules. In the interest of avoiding litigation, the parties have entered into this Order and agree to the provisions set forth below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Tom Roos, Environmental Specialist
IDNR Field Office #3
1900 North Grand
Spencer, IA 51301
Ph: (712)262-4177

Relating to legal requirements:

Carrie Schoenebaum, Attorney
Iowa Department of Natural Resources
Wallace State Office Bldg. 502 E. 9th
Street
Des Moines, Iowa 50319-0034
Ph: (515)725-8244

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

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II. JURISDICTION

The parties hereby agree that this Order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The City operates a wastewater treatment facility (WWTF) pursuant to NPDES permit No. 7222001. This permit was issued July 20, 2004. The City utilizes a gravity flow collection system with a single cell facultative waste stabilization lagoon. Final effluent from this facility is discharged to the Ocheyedon River which is a tributary to the Little Sioux River. Continuous discharge from this facility is prohibited; wastewater must be stored for approximately 180 days after which time the water level is to be lowered to make room for the next storage period. The NPDES permit authorizes lagoon drawdown in the spring and fall and at times when flow in the receiving stream is not at its minimum.
2. Pursuant to the City's NPDES permit it is required to submit Monthly Operation Reports (MORs) to the Department. The MORs submitted during 2006 document that discharges from the lagoon occurred a total of 113 days and occurred during months of February, March, April, May and October.
3. The MORs submitted during 2007 document that discharges from the lagoon occurred a total of 122 days and occurred during the months of March, April, May, August, September and November.
4. The MORs submitted during 2008 document that discharges from the lagoon occurred a total of 96 days and occurred during the months of April, May, June, October and November.
5. On November 17, 2008, the Department conducted an inspection of the City's WWTF. This inspection documented the above discussed discharges. On November 25, 2008, a copy of the inspection report was sent to the City. This report informed the City that it must take action to assure compliance with its

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NPDES permit and that the lagoon was not providing adequate storage time before wastewater was being released to the receiving stream. This report also included a detailed facility evaluation.

6. The MORs submitted during 2009 document that discharges from the lagoon occurred a total of 82 days and occurred during the months of March, April, July, October and November.

7. The MORs submitted during 2010 document that discharges from the lagoon occurred a total of 120 days and occurred during the months of March, April, May, June, August and October.

8. The MORs submitted during 2011 document that discharges from the lagoon occurred a total of 117 days and occurred during the months of February, March, April, June, July and November.

9. On May 3, 2012, the Department conducted an inspection of the City's WWTF. On May 4, 2012, a copy of the inspection report was mailed to the City. This report informed the City that it must take action to assure compliance with its NPDES permit and that the lagoon was not providing adequate storage time before wastewater was being released to the receiving stream. This report also included a detailed facility evaluation.

10. On July 31, 2012, the Department sent a Notice of Violation (NOV) to the City for violation of the carbonaceous biochemical oxygen demand five day (CBOD5) effluent limit contained in its NPDES permit. This NOV summarized the City's NPDES permit condition and the relevant Iowa law.

11. On October 14, 2014, the Department sent the City a NOV for violations documented during a WWTF inspection conducted on September 27, 2014. This NOV also included a copy of the inspection report. This report informed the City that it must take action to assure compliance with its NPDES permit and that the lagoon was not providing adequate storage time before wastewater was being released to the receiving stream. This report also included a detailed facility evaluation.

12. The MORs submitted during 2014 document that discharges from the lagoon occurred a total of 42 days and occurred during the months of June, July, and August.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60-64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. The above stated facts show noncompliance with this provision.

2. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibits the discharge of pollutants into waters of the State, except for adequately treated pollutants discharged pursuant to a permit from the Department. Because the discharges referenced herein were in violation of the City's permit, the foregoing facts establish that these provisions have been violated.

V. ORDER

THEREFORE, the Department orders and the City agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. By August 1, 2015, the City shall submit a facility plan for the rehabilitation of the collection system and/or WWTF improvements. The facility plan must address collection system and/or WWTF improvements necessary to reduce discharge frequency so that the City complies with its NPDES permit;

2. By December 1, 2015, the City shall submit plans and specifications with an application for a construction permit to the Department for the rehabilitation of the collection system and/or WWTF improvements;

3. By July 1, 2016, the City shall begin construction activities in accordance with its approved construction permit; and

4. By August 1, 2017, the City shall complete construction in accordance with its approved construction permit.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. In

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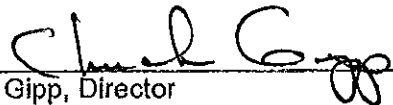
addition, Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order without the assessment of a penalty. The City is a small rural community with a declining population. The 2010 census reports that the population of the City is 170 individuals. Although the City's WWTF is in violation of the conditions of its NPDES permit the economic burden of construction and engineering will be significant. For that reason no penalty is assessed.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175 and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of the City. By signature to this Order, all rights to appeal this order are waived.

VIII. NONCOMPLIANCE

Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



Chuck Gipp, Director

Dated this 18th day of
February, 2015.



City of Harris

Dated this 10th day of
February, 2015.

Field Office 3, Carrie Schoenebaum; Tom Roos, I.B. 2. (d), I.C.1.,

